



PRELIMINARY DRAFT

No. 3120

**PREPARED BY
LEGISLATIVE SERVICES AGENCY
2005 GENERAL ASSEMBLY**

DIGEST

Citations Affected: IC 34-24-1-1.

Synopsis: Vehicle forfeiture for impaired driving. Provides that a vehicle may be forfeited if the person operating the vehicle is convicted of impaired driving and has three prior impaired driving convictions during the preceding five years.

Effective: July 1, 2005.



A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 34-24-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-41-1), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

(i) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).

(ii) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(iii) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(iv) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(v) Dealing in a counterfeit substance (IC 35-48-4-5).

(vi) Possession of cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-6).

(vii) Dealing in paraphernalia (IC 35-48-4-8.5).

(viii) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars (\$100) or more.

(C) Any hazardous waste in violation of IC 13-30-6-6.

(D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass destruction (as defined in IC 35-41-1-29.4) used to commit, used in an attempt to commit, or used in a conspiracy to



- 1 commit an offense under IC 35-47 as part of or in furtherance
 2 of an act of terrorism (as defined by IC 35-41-1-26.5).
 3 (2) All money, negotiable instruments, securities, weapons,
 4 communications devices, or any property used to commit, used in
 5 an attempt to commit, or used in a conspiracy to commit an
 6 offense under IC 35-47 as part of or in furtherance of an act of
 7 terrorism or commonly used as consideration for a violation of
 8 IC 35-48-4 (other than items subject to forfeiture under
 9 IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):
 10 (A) furnished or intended to be furnished by any person in
 11 exchange for an act that is in violation of a criminal statute;
 12 (B) used to facilitate any violation of a criminal statute; or
 13 (C) traceable as proceeds of the violation of a criminal statute.
 14 (3) Any portion of real or personal property purchased with
 15 money that is traceable as a proceed of a violation of a criminal
 16 statute.
 17 (4) A vehicle that is used by a person to:
 18 (A) commit, attempt to commit, or conspire to commit;
 19 (B) facilitate the commission of; or
 20 (C) escape from the commission of;
 21 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
 22 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
 23 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
 24 under IC 35-47 as part of or in furtherance of an act of terrorism.
 25 (5) Real property owned by a person who uses it to commit any of
 26 the following as a Class A felony, a Class B felony, or a Class C
 27 felony:
 28 (A) Dealing in or manufacturing cocaine, a narcotic drug, or
 29 methamphetamine (IC 35-48-4-1).
 30 (B) Dealing in a schedule I, II, or III controlled substance
 31 (IC 35-48-4-2).
 32 (C) Dealing in a schedule IV controlled substance
 33 (IC 35-48-4-3).
 34 (D) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
 35 (6) Equipment and recordings used by a person to commit fraud
 36 under IC 35-43-5-4(11).
 37 (7) Recordings sold, rented, transported, or possessed by a person
 38 in violation of IC 24-4-10.
 39 (8) Property (as defined by IC 35-41-1-23) or an enterprise (as
 40 defined by IC 35-45-6-1) that is the object of a corrupt business
 41 influence violation (IC 35-45-6-2).
 42 (9) Unlawful telecommunications devices (as defined in
 43 IC 35-45-13-6) and plans, instructions, or publications used to
 44 commit an offense under IC 35-45-13.
 45 (10) Any equipment used or intended for use in preparing,
 46 photographing, recording, videotaping, digitizing, printing,



- 1 copying, or disseminating matter in violation of IC 35-42-4-4.
- 2 (11) Destructive devices used, possessed, transported, or sold in
- 3 violation of IC 35-47.5.
- 4 (12) Cigarettes that are sold in violation of IC 24-3-5.2, cigarettes
- 5 that a person attempts to sell in violation of IC 24-3-5.2, and other
- 6 personal property owned and used by a person to facilitate a
- 7 violation of IC 24-3-5.2.
- 8 (13) Tobacco products that are sold in violation of IC 24-3-5,
- 9 tobacco products that a person attempts to sell in violation of
- 10 IC 24-3-5, and other personal property owned and used by a
- 11 person to facilitate a violation of IC 24-3-5.
- 12 (14) A vehicle operated by a person who:
- 13 (A) is convicted of an offense under IC 9-30-5-1 through
- 14 IC 9-30-5-5; and
- 15 (B) has three (3) prior unrelated convictions:
- 16 (i) under IC 9-30-5-1 through IC 9-30-5-5;
- 17 (ii) in another jurisdiction in which the elements of the
- 18 crimes for which the convictions were entered are
- 19 substantially similar to the elements of a crime described
- 20 in IC 9-30-5-1 through IC 9-30-5-5; or
- 21 (iii) under items (i) and (ii);
- 22 occurring within the five (5) years immediately preceding
- 23 the conviction for an offense under clause (A).
- 24 (b) A vehicle used by any person as a common or contract carrier in
- 25 the transaction of business as a common or contract carrier is not
- 26 subject to seizure under this section, unless it can be proven by a
- 27 preponderance of the evidence that the owner of the vehicle knowingly
- 28 permitted the vehicle to be used to engage in conduct that subjects it to
- 29 seizure under subsection (a).
- 30 (c) Equipment under subsection (a)(10) may not be seized unless it
- 31 can be proven by a preponderance of the evidence that the owner of the
- 32 equipment knowingly permitted the equipment to be used to engage in
- 33 conduct that subjects it to seizure under subsection (a)(10).
- 34 (d) Money, negotiable instruments, securities, weapons,
- 35 communications devices, or any property commonly used as
- 36 consideration for a violation of IC 35-48-4 found near or on a person
- 37 who is committing, attempting to commit, or conspiring to commit any
- 38 of the following offenses shall be admitted into evidence in an action
- 39 under this chapter as prima facie evidence that the money, negotiable
- 40 instrument, security, or other thing of value is property that has been
- 41 used or was to have been used to facilitate the violation of a criminal
- 42 statute or is the proceeds of the violation of a criminal statute:
- 43 (1) IC 35-48-4-1 (dealing in or manufacturing cocaine, a narcotic
- 44 drug, or methamphetamine).
- 45 (2) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled
- 46 substance).



- 1 (3) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
- 2 (4) IC 35-48-4-4 (dealing in a schedule V controlled substance)
- 3 as a Class B felony.
- 4 (5) IC 35-48-4-6 (possession of cocaine, a narcotic drug, or
- 5 methamphetamine) as a Class A felony, Class B felony, or Class
- 6 C felony.
- 7 (6) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as
- 8 a Class C felony.

